

IN THE UNITED STATES DISTRICT COURT OF TENNESSEE
FOR THE WESTERN DISTRICT, WESTERN DIVISION

JENNIFER DUNN,

Plaintiff,

VS.

ALLSTATE INSURANCE COMPANY,

Defendant.

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Docket No.: 2:10-cv-02745

CONSENT ORDER GRANTING DEFENDANT ALLSTATE INSURANCE
COMPANY'S MOTION FOR LEAVE TO AMEND ANSWER

This cause came before the Court upon motion of Defendant Allstate Insurance Company, pursuant to Rule 15 of the Federal Rules of Civil Procedure, for leave to amend its Answer to supplement its Third Defense. Allstate Insurance Company seeks to supplement and amend its Answer to include the following italicized language in its Third Defense:

THIRD DEFENSE

Defendant would state that it is not liable to Plaintiff for any sum because Plaintiff violated those provisions of the insurance policy set forth below:

GENERAL

Misrepresentation, Fraud or Concealment. We do not cover any loss or **occurrence** in which any **insured person** has concealed or misrepresented any material fact or circumstance.

Action Against Us. No one may bring an action against **us** unless there has been full compliance with all policy terms.

SECTION I – LOSSES WE DO NOT COVER

- C.8. Intentional or criminal acts of or at the direction of any **insured person**, if the loss that occurs: a) may be reasonably expected to result from such acts; or b) is the intended result of such acts. This exclusion applies regardless of whether or not the **insured person** is actually charged with, or convicted of, a crime.

SECTION 1 – CONDITIONS

3. **What You Must Do After A Loss.** In the event of a loss to any property that may be covered by this policy, **you** must:
(d) give **us** all accounting records, bills, invoices and other vouchers, or certified copies, which **we** may reasonably request to examine and permit **us** to make copies.
12. **Action Against Us.** *No one may bring an action against **us** in any way related to the existence or amount of coverage, or the amount of loss for which coverage is sought, under a coverage to which **Section 1 Conditions** applies, unless:*
a) there has been full compliance with all policy terms.

A violation of any of these provisions of the insurance policy is a complete and absolute defense to payment herein.

After reviewing Allstate's Motion and hearing from counsel for the parties, it appears that Defendant's Motion to Amend should be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Defendant's Motion to Amend Answer is hereby granted and that Defendant shall be permitted to file an Amended Answer to include the modified THIRD DEFENSE, as set forth above.

It is so ORDERED this the 24th day of February, 2011.

s/Bernice B. Donald
BERNICE B. DONALD
UNITED STATES DISTRICT JUDGE

01400-69044 RER

APPROVED FOR ENTRY:

RAINEY, KIZER, REVIERE & BELL, P.L.C.

By: /s/ Russell E. Reviere

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 /s/ Ronald T. Riggs (per telephone consent dated 2/15/10)

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